IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Civil Writ Petition No. 6122 of 2001 (S/S)
(Old No. 13411 / 1983)

Govind Singh Manral, Clerk,
Janta Higher Secondary School
(Now known as Janta Intermediate College)
Gumati, Almora,
Presently residing at Village Kuman
P/o Matela, District Almora.

…… Petitioner

Versus

1. The District Inspector of Schools, Almora.
2. The Deputy Director of Education (Kumaon Mandal), Nainital.
3. The Committee of Management, Janta Intermediate College, Gumati, Patti Talla Chaukot, Post Metela, Tehsil Ranikhet, District Almora (through its authorized controller)

……. Respondents

Mr. M.C. Kandpal, Senior Counsel assisted by Mr. Kurban Ali, counsel for the petitioner.
Learned Standing Counsel for the respondent Nos. 1 and 2.

Hon'ble Prafulla C. Pant, J.

Heard learned counsel for the parties.

2) By means of this petition, the petitioner has sought following reliefs:

i) Issue a writ, order or direction in the nature of mandamus commanding the opposite parties to give charge of the office to the petitioner and

also directing them to pay his salary (arrears as well as future).

ii) Issue any other writ, order or direction appropriate in the circumstances of the case.

iii) To award costs of this petition to the petitioner.

3) Brief facts of the case are that the petitioner was initially appointed as Clerk w.e.f. 08.07.1969 with the institution run by respondent No. 3. In the year 1970, Principal of said institution was placed under suspension in connection with some enquiry and the petitioner was also placed under suspension by the Management Committee of the College. It appears that a separate criminal case was also initiated against the accused persons, which included the petitioner. Defence of the petitioner was that he was on leave. In the criminal trial, accused was convicted vide order dated 14.02.1978, passed by Munsif / Judicial Magistrate, Ranikhet under Section 477-A of the Code of Civil Procedure, 1973. However, the petitioner appears to have preferred appeal and his appeal was allowed by learned Sessions Judge, Almora on 20.05.1978. Meanwhile, it appears that the Management Committee of the College, vide its resolution dated 09.03.1978, decided to terminate the services of the petitioner. However, the District Inspector of Schools (respondent No. 1) did not approve the resolution. The District Inspector of Schools passed an order dated 27/ 28 of July, 1978, operative portion of which, reads as under:

“mi;ZDr foospu ls ;g Li"V gS fd Jh eujky vlR;Hkk"kh fcuk vodk’k Lohd`r djk;s fo|ky; ls vuqifLFkr jgus ds ,oa voKk djus ds

nks"kh gSA pqWfd izcU/kkf/kdj.k }kjk izLRkkfor n.M vf/kd dBksj vr% izLrkfor n.M dks f'kfFky djrs gq;s fu.kZ; fn;k tkrk gS fd Jh xksfoUnflag eujky dks muds in ij iqu% LFkkfir fd;k tk; vkSj mudh vkxkeh nks o"kksZ dh okf"kZd osru o`f);kW LFkkbZ :Ik ls jksd nh tk; Jh eujky dks fuyEcu dky dk osru ns; ugh gksxkA

g0@
'kq'khy pUnz MksHkky
ftyk fo|ky; fujh{kd
vYeksMk"

4) From the record, it reveals that the petitioner challenged said order before the Deputy Director of Education, Nainital, through departmental appeal, and the same was dismissed vide order dated 20.04.1979 (copy of which is Annexure V to the petition). Thereafter, the petitioner wanted to join his duties, but it is alleged by the petitioner that he was not permitted to join his duties by the Management and he could his join his duties only on 02.07.1984.

5) In para 24 of the counter affidavit filed on behalf of the respondents it is alleged that the petitioner himself did not join his duties inspite of letters dated 01.08.1978, 08.08.1978, 14.08.1978 and 23.08.1978, issued by the Committee of Management of the College. It appears that the Committee of Management, meanwhile, instituted Writ Petition No. 9754 of 1981, before the Allahabad High Court

challenging the dissolution of the Management Committee. The said writ petition was decided by the Allahabad High Court vide its order 04.08.1981, a copy of which is Annexure C.A. -1 to the counter affidavit, filed on behalf of respondent No. 1. From said order, it appears that Sri Govind Singh Manral, respondent No. 4 (present petitioner) in said case was not allowed to join his duties by the Management Committee, in compliance of order passed by the Deputy Inspector of Schools.

6) In the above circumstances, it cannot be said that there had been break in the service of the petitioner, though, he was not entitled to the salary withheld under orders of the Deputy Inspector of Schools, mentioned above, and for the period he had not worked, but as to the consideration of the period of service for the purposes of pensionary benefits, since, it cannot be said that there had been any break in the service of the petitioner, this petition deserves to be allowed to the extent that for the purposes of pensionary benefits, the petitioner shall be treated to be in service from the date of his initial appointment in the institution i.e. 08.07.1969, without break. The Writ Petition, accordingly is disposed of. (All other pending application in this Petition stand disposed of).

(Prafulla C. Pant, J.)

Dt. 4th September, 2006.
H. Negi